

KEVIN V. RYAN (CSBN 118321)
United States Attorney

MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division

PETER B. AXELROD (CSBN 190843)
LAUREL BEELER (CSBN 187656)
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6774
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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| UNITED STATES OF AMERICA, |) | No. CR 05-00395 CRB |
| |) | |
| Plaintiff, |) | <u>REQUEST, STIPULATION AND ORDER</u> |
| |) | |
| v. |) | |
| |) | |
| HYE CHA KIM, |) | |
| |) | |
| Defendant. |) | |

This matter is currently on the Court's calendar for August 16, 2006. Through counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the August 16, 2006 date based on the parties' on-going plea negotiations, (b) set a date of September 20, 2006 for status/change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from August 16, 2006, to September 20, 2006.

1. The parties are currently engaged in plea negotiations and request that the Court set the matter for September 20, 2006, for status/change-of-plea.

2. Recently, the government provided defense counsel with additional discovery, including bank records, and defense counsel needs time to review those materials. Further, government

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counsel will be out of district the first two weeks of September. The parties anticipate further discussions to resolve the case.

3. The parties agree that the time between August 16, 2006 and September 20, 2006 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review additional materials from the government and investigate the immigration consequences of a plea agreement. These matters require a short time to address, and so the parties agree that a continuance is necessary for the effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties also agree that the ends of justice served by excluding the period from August 16, 2006 to September 20, 2006 outweigh the interest of the public and the defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

STIPULATED:

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| August 14, 2006 DATE | /S/ PETER B. AXELROD _____ PETER B. AXELROD LAUREL BEELER Assistant United States Attorneys |
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| August 14, 2006 DATE | /S/ SCOTT SUGARMAN _____ SCOTT SUGARMAN Attorney for Hye Cha Kim |
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ORDER

For good cause shown, and for the reasons stated above, the Court (a) vacates the August 16, 2006, hearing date for defendant Hye Cha Kim based on the on-going plea negotiations, (b) sets the matter for status/change-of-plea on September 20, 2006, at 2:15 p.m., and (c) excludes times under the Speedy Trial Act, 18 U.S.C. § 3161, from August 16, 2006, to September 20, 2006. The Court finds that the failure to grant the requested exclusion would deny defense counsel

1 reasonable time necessary for effective preparation taking into account the exercise of due
2 diligence. Further, the Court finds the exclusion warranted on complexity grounds, under 18
3 U.S.C. § 3161(h)(8)(B)(ii). Thus, the Court finds that the ends of justice served by granting the
4 requested exclusion outweigh the best interest of the public and the defendant in a speedy trial
5 and in the prompt disposition of criminal cases. The Court therefore concludes that this
6 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii) and
7 (h)(8)(B)(iv).

8 IT IS SO ORDERED.

9
10 DATED: August 15, 2006

